

Acknowledgments

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I want to acknowledge the incredible amount of work done, thought given, support provided and humor shared by the people involved in developing the Residential Training Certification Standards.

We began in the Autumn of 2002 to try to delineate "rules to live by" for Individual Services Options (Shared Living.) That group consisted of Leslie Record (Living Innovations,) Cathy Slack Spinelli (Residential Resources,) Megan Karges (Medical Care Development,) Karen Holbrook (Alternative Services, Inc.,) Lori Oliver and Dennis Strout (Momentum,) and M. L. Owen (DHHS/Adult MR Services.) We spent many hours looking at licensing regulations and discussing the best ways to assure the highest possible standard of services for people with mental retardation or autism.

Resource Coordinators, under the very able leadership of David Goddu and Earl Babcock, began discussing the importance of developing standards for *all* non-licensed programs, not just for SL programs. And so the standards were revised to incorporate shift-staffed program requirements as well.

Nancy Christensen (DHHS/Central Office) reviewed the document and gave us invaluable criticism and assistance. She shared the licensing standards already developed for residential facilities serving people with mental health and substance abuse issues, and we completely re-wrote our standards, using that format.

We have received feedback and advice from many agency staff members and from independent providers as we wrote and re-wrote and revised these documents and for all their help, we are very grateful.

Special thanks go to Jane Gallivan, Neal Meltzer, Mary Crichton, and Paul Tabor for their encouragement, support, suggestions and direct contributions.

Sincerely,

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I. INTRODUCTION

A. Statement of Purpose

These Certified Residential Training Standards (CRTS) are applicable to all residential services provided to persons with mental retardation or autism authorized and not licensed by the Department of Health and Human Services (DHHS.)

The Certified Residential Training Standards set a clear baseline of performance on the part of providers authorized to provide such services under these standards and the consequent baseline of expectations on the part of the people who utilize the services.

Secondly, the CRTS were developed to assure a high standard of quality for programs funded by the Home & Community Based Waiver and not licensed by DHHS in those residential programs serving one or two people. These standards apply to services provided to one or two people in Shared Living (SL) models, in shift-staffed programs, and in the homes managed by independent providers. Services provided to three or more people in one site continue to require residential licensing by DHHS rather than the certification granted under these standards.

DHHS/Adult Mental Retardation Services has established a practice of authorizing an agency or independent provider to provide Certified Residential Training Services and certifying each site in which those services take place. DHHS/Adult MR Services will grant authorization to independent providers and agencies that have submitted applications and supporting documentation. Upon authorization, the agency will then complete a Self-Review for Certification of each site and submit it to the Department. DHHS/Adult MR Services will issue Certificates for each site.

B. Use of the Standards

These standards are organized to include core requirements for all agencies and independent providers (Sections II through VII.) These sections specify the standards under which all providers and sub-parts of providers are expected to operate. The sections address provider organization and operation, the operation of individual programs or services, personnel administration, environment and safety, the requirements for acquiring and maintaining certification, the review process associated with certification, and definitions.

C. Authority

These standards will be incorporated into Agreements to Purchase Services between the DHHS/Adult MR Services and the providers of service. These

standards will become effective consistent with the Contract to which they are attached.

II. Residential Training Certification DEFINITIONS

Advocate: a representative of the protection and advocacy agency described at 5 MSRA § 19501-19509.

Adaptive equipment: devices, controls or appliances that enable individuals to increase their abilities to perform activities of daily living or to control their environment.

Adult: a person who has attained his/her 18th birthday or who has been legally emancipated.

Adult Foster Care: is a living arrangement for up to two adults with mental retardation or autism; these adults are unable to live alone due to their special needs. AFC homes provide basic services: room, board, supervision, protection, and household services. Providers may also assist with medication, the managing of money, and personal care.

Advance directive: an instruction regarding the health care desired and/or a health care power of attorney, made by a person with capacity. Usually written to take effect when and/or if the writer becomes incapacitated.

Agency: a firm, partnership, association, corporation, sole proprietorship, organization or trust authorized under these regulations.

Americans with Disabilities Act (ADA): The Americans with Disabilities Act of 1990 (104 Stat 327, Pub. L. 101-336, 42 USC sections 12101 et seq.)

Appeal: a request by an agency for a hearing to review any negative licensing action taken by the licensing authority or Department. Appeals of citations of deficiencies that do not result in negative certification actions are not permitted.

Authorization: written permission issued by the department to operate a program or service.

Assessment: the process of identifying the person's needs through in-person contact with the person and, where appropriate, consultation with other providers and with the person's family and guardian.

Autism: a developmental disorder characterized by a lack of responsiveness to other people, gross impairment in communicative skills and unusual responses to various aspects of the environment, all usually developing within the first 30 months of age (34B MRSA §6002).

Auxiliary aids and services: devices and services utilized to ensure that communication with individuals with impairments of hearing, speech, vision or cognition are as effective as communications with persons without the impairment(s).

Bedroom: a distinct room used as a sleeping area. Closets, alcoves, corridors or any other room that is normally used for other than sleeping are not considered to be bedrooms.

Behavioral intervention: programmatic interventions utilized to effect a change in behavior. This may include behavioral contracting, voluntary or involuntary time out, positive reinforcement, and so forth. Any such intervention must adhere to the Regulation Governing Emergency Interventions and Behavioral Treatment for People with Mental Retardation and/or Autism.

Case management services: those services provided by an agency or by Health and Human Services to identify the medical, social, habilitation, training and other needs of the person served; identify the services necessary to meet those needs; and facilitate access to those services. Case management consists of person-centered planning, coordination, advocacy, monitoring, and evaluation. The case manager may advocate on behalf of the person for appropriate community resources and coordinate the multiple providers of social and health services defined in the care plan. As part of the coordination function, the case manager will avoid the duplication of services.

Certification: the process by which the independent providers, the agency, Direct Support Professionals (DSP) and SL Providers assure the standards developed by DHHS governing the certification of one and two-person residential training services are being adhered to.

Certification Confirmation Review: the process by which an employee of DHHS may follow up on any information provided as a result of the self-report. This may be done via a site visit, telephone contact or documentation review.

Certification Self-Review: the annual process by which an independent provider or agency reviews (at each home/service site) the Residential Training Certification Standards, documents their findings, and sends a copy of those findings to DHHS.

Certified Residential Medication Aide (CRMA): an independent provider, DSP or SL Provider who has successfully completed the training course requirements as set by the Department of Health and Human Services. As a CRMA, this person is responsible to administer medication, to observe for possible medical reactions, and to report accurately. (A Shared Living

Medication Administration Certificate may be substituted for SL Providers in lieu of CRMA.)

Chemical restraint: the administration of a psychotropic medication for the exclusive purpose of sedation.

Chief administrative officer: the person appointed by the Governing Body to manage the agency in accordance with policies established by the Governing Body.

Child: any person who has not attained the age of eighteen (18) and who has not been otherwise emancipated.

Civil Rights Act of 1964: 78 stat 241, Pub. L. 88-352, 42 USC § 2000a et seq.

Client: an individual who is eighteen (18) years of age or older who has been found eligible to receive services from BDS and who is receiving residential services.

Commissioner: the Commissioner of the Department of Health and Human Services.

Community support services: services designed to promote the community integration of people in the settings and communities of their choice.

Companion Employee: A live-in companion (a person or family) who provides needed support to a consumer living in his or her own home or apartment. Companionship services are defined as those which “provide fellowship, care and protection.” They may include “household work related to care, such as meal preparation, bed making, washing clothes and other similar services” as well as services that assist the client in daily activities, such as bathing, dressing, eating, medication management or money management.

Compliance: to be in accordance with a regulation.

Consumer: a person receiving services, a client.

Controlled drugs: any scheduled drug.

Crisis: a situation, condition or major event with a high probability of leading to the need for emergency intervention if left unaddressed.

Cultural competence: the ability to function effectively in the context of cultural differences, including age and gender; the ability to understand, respect and effectively work with persons/groups with various cultural backgrounds.

Department: The Department of Health and Human Services.

Direct Support Professional: Direct Support Professionals (DSPs) provide guidance and support to people who have mental retardation or autism. DSPs provide this support to a wide range of individuals; including people with physical, psychiatric, or cognitive disabilities. Many DSPs view their job as a profession that demands complex skills and knowledge, ethical judgment, and the ability to create long-term relationships of trust and mutual respect.

Direct Support Provider: The person with whom the client lives and who is primarily responsible for the services provided in the SL program.

The Equal Employment Opportunity Act of 1972 (EEO) (Pub. L. 92-261), as amended.

Eligibility: the process of determining if an individual is eligible for Mental Retardation services according to 34-B MRSA Ch. 5.

Emergency: either those events demonstrating that a person served has an urgent medical or psychological need, which requires immediate acute care or treatment; or a natural disaster that damages or interrupts vital services or the physical integrity of the home.

Evaluation: the process of determining whether the care plan is appropriate, whether a new plan is necessary, or whether services should be terminated. Evaluation is accomplished through periodic in-person reassessment of the person, consultation with other providers, and, if appropriate, consultation with the person's family and/or guardian.

Facility: the location or structure housing a program or programs.

Functional Assessment: a comprehensive evaluation of an individual's health, social, environmental, financial and family or community supports, which will determine the strengths and needs of the person served.

Governing Body: an individual or association of persons with ultimate managerial control and legal responsibility for the operation of a program or service and for defining the program or service authority and structure. Normally, the Governing Body discharges its responsibilities by employing a chief administrative officer and formulating policies for the agency's authority and structure.

Guardian: person(s) or agency with ongoing legal responsibility for ensuring the care of an individual, appointed pursuant to 18-A MRSA, Article 5, Part 3.

Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L.104-191).

Home and Community-based Waiver for Persons with Mental Retardation:

A MaineCare benefit which includes certain habilitation, transportation, respite care, adaptive aids, communication aids, crisis intervention environmental modification, personal support, residential training, and supported employment services. These services allow a MaineCare member to reside in the least restrictive setting.

Independent Provider (of MaineCare Residential Training Services): A person contracting directly with the state of maine (acting without the oversight or supervision of an agency) who receives MaineCare Waiver compensation for providing residential services to one or more consumers in the Independent Provider's home.

Informed consent: consent obtained in writing from an individual or the individual's legally authorized representative for a specific treatment, intervention or service. Elements of a valid informed consent include information to assist the individual to make the consent, including: the nature and purpose of the procedure(s) or service(s) for which consent is sought, all material risks and consequences of the procedure(s) or service(s), an assessment of the likelihood that the procedure(s) or service(s) will accomplish the desired objective(s), any reasonably feasible alternatives for treatment, with the same supporting information as is required regarding the proposed procedure(s) or service(s), and the prognosis if no treatment is provided.

Initial Certification Self-Review: the process by which an agency reviews the Residential Certification Standards for a particular setting and the home and the Direct Support Professionals/Provider meet standards set forth by DHHS. The Self Report is conducted by the agency or independent provider and is submitted prior to commencing services.

Intake: the collection of data prior to the admission to a program, the process by which a client is considered for service.

Interpretive services: services provided to translate spoken or written English into another spoken language, sign language, or another communication mechanism, and vice versa.

Least restrictive alternative: the least intrusive service or treatment that can effectively and safely address the client's needs and stated preferences, including but not necessarily limited to location.

Maine Human Rights Act (MHRA): 5 MRSA §4551, *et seq.*

Mental retardation: as defined at 34-B MRSA § 5001, a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

Monitoring: the process of ensuring that the person's care plan is implemented and assessing progress towards meeting the objectives outlined in the care plan. It includes contact with the person as needed to monitor the care plan objectives and, if appropriate, periodic contact with the person's family and guardian.

MRSA: Maine Revised Statutes Annotated.

Nursing Services: services provided to an agency by a professional nurse, licensed pursuant to Title 32 M.R.S.A. § 2102, subsection 2.

PRN: *pro re nata*, or as needed, used to describe medication administered on an intermittent basis.

Person Centered Plan (PCP): the document in which the needs and desires of the person are articulated and identified based upon an assessment of the person served and habilitative goals and objectives and the resources and methods necessary to implement them are written.

Person Centered Planning: the process of determining, with the person, and unless inappropriate, the person's family and guardian, and other providers, what services and resources are necessary to meet the identified needs and desires of the person and how they might be most appropriately delivered. The plan is designed to maintain current service delivery and to resolve gaps in services so that comprehensive care is attained.

Person Served: any person eighteen (18) years of age or older with mental retardation or autism who is a client of DHHS and is receiving or eligible to receive residential training services. The terms "consumer, client, person served, individual" shall be synonymous.

Policy: a statement of the principles that guide and govern the activities, procedures, and operations of a program or the provision of services.

Potentially hazardous food: a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxic microorganisms. The majority of potentially hazardous foods are of animal origin or contain animal products, contain or are comprised of lightly cooked or raw shell eggs, are low acid, have not been commercially canned or sealed, and/or are intended to be consumed without further cooking.

Procedure: a series of activities designed to implement the goals or policies of a program.

Program: an organized system of services with a mission, philosophy and model of service delivery designed to address the needs of clients. The service delivery requirements and responsibilities of the independent provider, an agency, Direct Support Providers, and Direct Support Professional staff to a person served by that agency. May also mean the specific home in which the client lives and in which services take place.

Program manager: person designated by an agency for overall responsibility for a discrete program, service or other management division.

Provider: the entity responsible for direct residential service provision. The term includes paid staff (Direct Support Professional, Companion Employee) or any other person receiving any form of compensation (Independent Provider, SL Provider, Direct Support Provider, Adult Foster Care Provider) for the provision of services to a person served. The term also often refers to an “independent provider” or an “agency” providing residential services.

Quality management: processes designed to improve the quality of care of services within an organization. Quality management includes quality assurances and quality improvement activities.

Registered Nurse or Registered Professional Nurse (RN): an individual who is currently licensed by the Maine State Board of Nursing to practice professional nursing.

Rehabilitation Act of 1973: 87 Stat. 355, Pub. L. 930112, 42 USC sections 701 et seq.

Residential training services: those covered services provided in a certified or licensed home/facility. Services include, but are not necessarily limited to: “training, assistance and supervision in enabling a member to maintain or improve his/her health, development, and physical condition; assistance in performing self-care tasks; training in activities of daily living; training in the use of community resources; and training in adapting behavior to a community and home environment, management of financial and personal affairs, and awareness of health and safety procedures.” (MaineCare Benefits Manual, Chapter II, Section 21, Home and Community-based Waiver Services for Persons with Mental Retardation)

Self-administration: the opportunity given to a client while in a residential program to assume responsibility to take medications according to prescription. Staff supervision is not necessarily required.

Shared Living (SL): a particular residential services model offered to clients of DHHS by agencies authorized by DHHS to provide such services. The model is flexible in order to best meet the needs of the individual served. Services typically take place in the home in which the Direct Support Provider lives with the person served. Services can range from minimal support from one Direct Support Provider to extensive support for medical, behavioral and/or activities of daily living needs by both a Direct Support Provider and scheduled shift staff employed by the Agency.

Site: any physical location where services are provided.

Student: a person engaged in a recognized post-secondary program of study.

Supports: those actions or assistance that permit a person with mental retardation or autism to carry out life activities.

Transfer: to change from one service provider to another, whether within an agency or between agencies.

Transfer summary: a brief description of the client's course of treatment or service; it may also contain recommendations for further treatment and/or service and referrals if desired by the client. The summary is prepared by the provider or agency whose services are ending for use by the provider or agency assuming service responsibilities.

Voluntary time out: the voluntary use of a low stimulus environment utilized to help people regain composure and self-control. While encouragement may be used to facilitate the use of voluntary time out, the client may not be denied exit from the area.

Volunteer: A person who, without financial compensation, provides services to a program, under direct supervision of paid agency staff.

Waiting list: an unduplicated collection of names or other unique identifiers of people who have requested and/or been identified as needing a specific service, and for whom the service is not currently being provided.

Waiver: the intentional relinquishment of the right to enforce a specific section of these rules, granted to an agency by the licensing authority.

III. RESIDENTIAL TRAINING CERTIFICATION PROCEDURE AND REVIEW

A. Terms of Certificates

1. Prohibition. No service governed by these rules may be provided without a corresponding Agreement to Purchase Services.
2. Authorization to provide Certified Residential Training Services (CRTS) shall be issued to agencies and independent providers that meet the terms and conditions described at III. B below. A certificate shall be issued to each site that meets the terms and conditions, as assured by the authorized agency or independent provider, which are described in these rules under VII Environment and Safety standards.
 - a) Authorization and Certificate.
 - i. Authorization shall be issued to an applicant that complies with all applicable laws and rules.
 - ii. A certificate for a program site shall be valid for one to three years from the date of issuance unless revoked.
3. Agencies and independent providers shall operate under one authorization.
4. Certification does not guarantee the use or continuance of a service recipient's placement.

B. Initial Application for an Agency Authorization

1. Application Form. Initial applications shall be made on a form provided by DHHS/Adult MR Services and submitted to the Regional Mental Retardation Services Resource Coordinator.
 - a) The initial application for authorization shall be signed and dated by the independent provider or by the presiding officer of the agency's governing body and accompanied by the requested materials.
 - b) The initial Self-Review form for a site's certificate shall be accompanied by documents demonstrating compliance with Section VII Environment and Safety (site specific) standards.
 - c) The Self-Review form shall be accompanied by clear driving directions to the site. Each certified site will receive a Confirmation Review within 90 days of certification by a representative of DHHS/Adult MR Services.

2. Authorization to provide Certified Residential Training Services shall be on-going, until and unless the Agreement to Purchase Services is terminated. Certification of each site will be for the term of one to three calendar years, from the initial certification date.
3. Waivers. Waivers may be granted under the following terms and conditions:
 - a) All requests for waivers shall be made at the time of initial or renewal certification application. Requests shall be made in writing on a form provided by DHHS/Adult MR Services.
 - b) Requests for waivers shall be accompanied by documentation providing clear and convincing evidence which demonstrates that the alternative method will comply with the intent of the rule.
 - c) Waivers granted shall be for a specific period not to exceed the term of the certificate.
 - d) The following shall not be subject to waiver:
 - i. Rights and Protections of a Person with Mental Retardation or Autism
 - ii. Rights of Recipients of Mental Health Services;
 - iii. Rights of Persons Receiving Substance Abuse Treatment;
 - iv. State or Federal statutes;
 - v. Federal rules or regulations.
4. Technical Assistance. Technical assistance may be provided by DHHS/Adult MR Services to the agency or independent provider applying for authorization or certification, at the request of the applicant. Technical assistance shall not be substituted for advice of counsel.
5. Site Visits. A site visit (Confirmation Review) of each certified residential training service location shall be conducted by representatives of DHHS/Adult MR Services within 90 days of receipt of the Self Review Form.

C. Renewal Applications

1. General. Applications for certification renewal must be made not less than 30 days nor more than 60 days prior to the date of expiration of the current certificate.

2. Responsibility of authorized entity. The authorized agency or independent provider shall be solely responsible for making timely and complete application for the renewal of certificates.
3. Application form. Certification renewal applications shall be made on a form provided by DHHS/Adult MR Services.
 - a) The Self-Review renewal form shall be signed and dated by the independent provider or the agency's residential services director or designee.
 - b) The certification renewal applications shall be accompanied by documentation relevant to the provision of services. Such documentation shall include, but is not necessarily limited to:
 - i. changes made in material submitted with the application for the authorization or current certificate,
 - ii. additional policies or other similar material,
 - iii. a description of any policies or similar material that have been discontinued or suspended.
 - c) Requests for waivers of a particular standard or the renewal of a waiver granted under a current certificate shall accompany the renewal application.

D. Transfer of Certificates. No authorization shall be transferable from one agency or independent provider to another. No certificate shall be transferable from one location to another.

E. DHHS/Adult Mental Retardation Services Authority to Assess Provider Compliance

1. Visits to Determine Compliance. Any employee authorized by DHHS/Adult MR Services, shall have the right of entry at any time consistent with usual hours of operation of the service, and may inspect the site and any records required by these rules in order to determine compliance with law and with these rules.
2. Any representative of DHHS/Adult MR Services shall have access, in private, to any consumer of services for the purpose of investigating a suspected violation of law and/or rules and/or standards established by the department.
3. Availability of Information. DHHS shall have access to any information that the independent provider or agency is required to have under these standards and any information reasonably related to assessment of compliance with these standards.

F. Sanctions and Corrective Actions. Whenever the department finds that a service governed under these rules is being provided in a manner

not in compliance with applicable standards, or an independent provider or agency is operating in a manner not in compliance with these standards, DHHS may take certain actions as delineated in the Agreement to Purchase Services.

Emergency Revocation. Whenever, upon investigation, conditions are found which, in the opinion of DHHS, immediately jeopardize the health or physical safety of persons living in a program/home or receiving service from an independent provider or agency, the department may revoke, suspend or refuse to renew any certificate without a hearing for a period not to exceed 30 (thirty) days in accordance with the Maine Administrative Procedure Act, 5 MRSA §10004(3).

IV. RESIDENTIAL TRAINING CERTIFICATION AGENCY ORGANIZATION

(Highlighted sections apply to Independent Providers)

A. Statement of Ownership

1. Authority. The agency shall maintain documentary evidence of its source(s) of authority to provide services. Such evidence will include articles of incorporation, corporate charter or similar documents.
2. Records. Corporations, partnerships or associations, whether for-profit or not-for-profit, shall maintain records of the names and current addresses of officers and directors, charters, partnership agreements, constitutions, articles of association and/or by-laws, as applicable.
3. For Profit Organizations. Organizations operating on a for-profit basis shall maintain the names and current addresses of principal owners.

B. Governing Body

1. Definition. There shall be an individual or association of persons with ultimate managerial control and legal responsibility for the operation of the agency, called the Governing Body.
2. Membership of the Governing Body

- a) Employees of any state or Federal government entity assigned responsibilities associated with the licensing or certification of, purchase of service from, or contracting with the agency, or members of the immediate family of such employees, shall not be members of the governing body.
- b) The agency shall maintain a record of the membership of the governing body, indicating the position and term of office for each member.

3. Nonprofit Organizations

- a) If a paid agency staff person or the chief administrative officer of the agency serves as a member of the governing body, they shall not have a controlling or determining vote and shall not vote on matters of self-interest.
- b) Members of the governing body of nonprofit organizations shall number no fewer than three persons.
- c) Input of the members of the governing body who are recipients or family members shall be solicited in meaningful ways for the full spectrum of the governance activities of the agency. Documentation and adequacy of such efforts shall be subject to the review of the department.

4. Duties of the Governing Body

- a) Meetings. The Governing Body shall:
 - i. Maintain records of attendance and minutes of its meetings. Records of attendance and minutes shall be maintained by the agency and made available to the department;
 - ii. Adopt a policy regarding conflicts of interest among its members. At minimum, the policy must define a conflict of interest and a matter of self-interest, and describe the procedures for resolving those conflicts.
- b) Agency Operation and Management. The Governing Body shall:
 - i. Develop a mission statement describing the overall philosophy and function of the agency;
 - ii. Be responsible for and have authority over the policies and operations of the agency;
 - iii. Designate a person to act as chief administrative officer of the agency and delegate sufficient authority to such person to manage the agency;

- iv. Complete an annual written evaluation of the performance of the chief administrative officer;
 - v. Formulate and periodically review, or designate authority to formulate and approve, written policies required by these standards, in consultation with the chief administrative officer;
 - vi. Periodically confer with persons receiving services and members of the communities in which services are provided as to the nature and direction the agency is heading;
 - vii. Make available to the department any policies or records required by these standards or reasonably related to the assessment of compliance with these standards;
 - viii. Meet with representatives of the department when requested to do so;
 - ix. Ensure that services are provided in compliance with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act and the Maine Human Rights Act (MHRA);
 - x. Be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine;
 - xi. Certify that it shall provide a work place free of illegal or illicit drugs.
 - xii. Ensure that there is in place a quality management system that serves as an integral part of providing quality services to the people served by the agency.
- c) Fiscal Management. The Governing Body shall:
- i. Ensure that the agency is adequately funded to provide services;
 - ii. Provide physical facilities, staff, equipment, supplies and other needs adequate and sufficient to provide services;
 - iii. Review and approve the agency's annual budget;
 - iv. Provide for an annual report of the agency's financial status, completed by an independent auditor, consistent with these standards, and shall review and accept said report.
- d) Communication with the Department. The Governing Body shall ensure written notification to the department:
- i. ninety calendar days in advance of any proposed change in location, name or ownership of the agency;

- ii. thirty calendar days prior to any planned change or within ten calendar days following any unplanned change of chief administrative officer of the agency;
- iii. sixty calendar days in advance of any substantial change in policy or service;
- iv. within two working days after the agency receives notice of any legal proceedings arising from circumstances related to the provision of services or the continued operation of the facility and/or program, whether brought against the agency or against any employee;
- v. within two calendar days after receiving notice or learning of criminal convictions for events occurring in the workplace;
- vi. within ten calendar days after receiving notice of significant discrepancies found at audit.

C. Chief Administrative Officer

1. Selection and Appointment. The chief administrative officer shall be appointed by the governing body from among persons knowledgeable, by training and experience, and capable of managing the affairs of the agency. The chief administrative officer shall possess a baccalaureate degree from an accredited college or university in a field of study applicable to the provision of human or social services, and which includes knowledge and training necessary to manage the day-to-day fiscal operations of an agency requiring an annual audit.
2. Duties of the Chief Administrative Officer. The chief administrative officer shall:
 - a) Manage the affairs of the agency in accordance with policies established by the governing body and ensure compliance with all standards, rules and regulations applicable to the provision of services and all programs operated by the agency, except those specifically noted to be the responsibility of the Governing Body;
 - b) Have directional authority over all operations of the agency;
 - c) Ensure compliance with requirements regarding Reportable Events and Regulations Governing Emergency Interventions and Behavioral Treatment for People with Mental Retardation and/or Autism;
 - d) Ensure written notification to the department in the event of fire, structural damage or other catastrophe which renders any structure used for the provision of certified

- services, unsafe, unusable or uninhabitable, within 24 hours following such event;
- e) Post current, applicable certificates issued under these rules within each certified site/program.

D. Fiscal Management

1. Budget. There shall be a formal, annualized line item budget, approved by the governing body, indicating anticipated revenues and expenses for the current fiscal year.
 - a) Revenue shall be documented by source.
 - b) Expenses shall be categorized by line item, and shall be specific to each discrete program or other management division.
 - c) Revisions to the budget shall be clearly documented.
 - d) Review and approval of the budget by the governing body shall be clearly documented, including date of approval.
2. Policies. The agency shall maintain written policies regarding the fiscal management of the agency. These shall include, but not necessarily be limited to:
 - a) Purchasing, including purchasing authority and procedures;
 - b) Accounts receivable, including handling of cash, credit for services, write-offs for free services or bad debts, billing for services;
 - c) Accounts payable, including authority and procedures for making payments and disbursements;
 - d) Setting of fees or charges for services;
 - e) Notification to clients of fee schedules and means to document such notification.
2. Audits. The agency shall have an annual audit or review of financial operation of over-all agency operation and of each discrete program or other management division, which shall conform to the requirements of the Maine Accounting and Auditing Practices for Community Agencies, and which shall be conducted by an independent auditor not otherwise receiving remuneration from the agency or the governing body.
 - a) Audits shall be performed in accordance with applicable state and Federal regulations and shall accurately reflect the agency's financial position.
 - b) Audit reports shall include a review of the system of cost accounting, which reflects the current cost per unit of service for each discrete program or other management

division, and which shall include the formulas used to compute the costs.

- c) Audit reports shall be reviewed by the governing body. Documentation of such review shall be maintained, including the date of the review. Audit reports and the documentation of review shall be subject to the review of the department.
- d) A current income tax return, along with individual program budgets may be accepted in lieu of an audit report for a sole proprietorship.

E. General Policies.

1. The agency shall maintain policies governing essential elements of service provision.
2. Rights. The agency or independent provider shall maintain policies and procedures guaranteeing the rights of individuals receiving services, consistent with applicable standards, rule, law and regulation.
3. Records. The independent provider or agency shall maintain policies and procedures regarding records of services provided, which shall be consistent with applicable law, rules and regulations and integrated into the department's information management system. Policies shall address, but not necessarily be limited to,
 - a) Organization and content of paper records;
 - b) Definition of active records;
 - c) Confidentiality of records, including security of automated record systems if used and of the department's information management system;
 - d) Security of active and inactive records, including access and removal from storage;
 - e) Releases of information. Releases of information must specify
 - i. The purpose for which the information is requested,
 - ii. The entities from which and to which information is provided,
 - iii. The scope and content of information requested (such as medical records, work records, etc.),
 - iv. The period during which the release is valid. The period shall not exceed 365 consecutive calendar days,
 - v. The acquisition of dated signatures from guardians when one has been appointed

- vi. The mechanism to withdraw consent for the release of information;
 - f) Disposal of inactive records, which shall provide for retention for no fewer than seven years following the date of the last service contact;
 - g) Back up of automated record systems, if used;
 - h) Legibility and integrity of entries to records. At minimum, the policy must address:
 - i. Corrections to records, prohibiting the use of correction fluid, tapes, labels and similar techniques and devices;
 - ii. The prohibition of back-dating entries;
 - iii. A provision for the use of late entries to records, which must include the use of a phrase identifying the entry as late;
 - iv. A requirement for an easily recognizable date for every entry;
 - i) Signatures and identification of persons making entries to records;
 - j) Discharge summaries, which shall summarize the course of services/treatment and address efficacy of service/treatment provided as outlined in the service plan goals, and make recommendations for further services if needed or desired.
- 4. Informed consent. The agency shall maintain policies and procedures regarding the acquisition and support of informed consent for services.
- 5. Confidentiality.
 - a) The agency shall maintain policies and procedures regarding the maintenance of confidentiality in the use of facsimile machines, electronic transfer of data, cellular phones, and other technologies used to store or transmit information, and in interpersonal exchanges.
 - b) Specific policies, consistent with 5 MRSA 19203, shall address the maintenance of confidentiality of results of testing for Human Immunodeficiency Virus (HIV).
- 6. Access by consumer. The agency or independent provider shall maintain policies and procedures regarding the access of individuals to their own records.
- 7. Management of infectious diseases. The agency or independent provider shall have written policies and procedures governing the management of infectious diseases, to include at minimum

screening policies and procedures and maintenance of universal precautions.

- a) The infectious diseases include, but are not necessarily limited to, HIV (Human Immunodeficiency Virus), tuberculosis, hepatitis (any type), rubella (measles), mumps, varicella (chicken pox), pediculosis (lice), scabies (e.g., *Sarcoptes scabiei*).
- b) Screening policies applicable to both clients and staff shall address the criteria for testing and referrals to further treatment, and must consider the limits of inquiry allowed by law (i.e.: TB screening).
- c) **Universal precautions and other precautions recommended by the Bureau of Medical Services, the US Public Health Service or the Centers for Disease Control, as applicable, shall be enforced.**

F. Quality Management

- 1. Policies. There shall be written policies governing the development and maintenance of an effective quality management program.
- 2. Plan. The agency shall maintain a plan to monitor, evaluate, document and improve the services provided and the service delivery systems.
 - a) The plan shall identify areas determined by the agency to be critical to quality service provision.
 - i. There shall be clearly documented evidence that the plan has been developed with meaningful involvement of people who are consumers of the services provided by the agency.
 - ii. The plan shall clearly demonstrate a logical progression of review of elements in areas critical to quality service provision.
 - b) The plan shall describe goals set by the agency to improve services or service delivery and shall describe indicators to measure achievement of the goals.
 - c) The plan shall include on-going, year-round, regular activities to measure goal achievement.
- 3. Quality Management Review. The findings of the quality management process shall be reviewed at least annually.
 - a) The review process shall include the governing body, consumers, family members, guardians, client advocates, agency staff, funding agencies and members of the community at large.

- b) The findings, and actions taken as a result of findings, shall be documented and the plan shall be revised in accordance with the findings.
- 4. Critical Incidents and Adverse Outcomes. Specific policies and procedures shall be developed and follow in accordance with applicable laws, rules and regulations, including but not necessarily limited to the Reporting, Investigation and Review of Reportable Events, 14-197 CMR 9.
- 5. Reports of Abuse, Neglect or Exploitation. The agency shall maintain a specific policy and procedure governing the reporting, recording and review of allegations of abuse, neglect or exploitation of persons receiving services, in accordance with applicable laws, rules and regulations, including but not necessarily limited to the Adult Protective Services Act, 22 MRSA §3740 *et seq.*; 14-197 CMR 6, Regulations Governing Adult Protective Assessments & Investigations for Persons with Mental Retardation or Autism.
- 6. Grievances. The agency shall maintain a specific policy and procedure in accordance with 14-197 CMR 8, governing the reporting of grievances of individuals receiving services, the procedural follow-up and response on the part of the agency to the person making the complaint, and the documentation of the process and outcome.

G. Miscellaneous

- 1. Insurance. An insurance program shall be in force at all times. Coverage shall include, but not necessarily be limited to,
 - a) Comprehensive liability insurance for the governing body, personnel, and property;
 - b) Automobile liability insurance for every vehicle owned or operated by the agency in an amount equal to the limit set by the Maine Torts Claim Act (14 MRSA § 8101 *et seq.*);
 - c) Automobile liability insurance for any staff-owned vehicle used for client transportation, in an amount equal to the limit set by the Maine Torts Claim Act.

V. RESIDENTIAL TRAINING CERTIFICATION PERSONNEL MANAGEMENT

A. Personnel Policies. The agency shall adopt written personnel policies and procedures to adequately address the relevant elements of these standards and applicable laws.

1. Access to personnel policies. Employees, individuals receiving services, families, guardians, advocates and representatives of the department shall have access to personnel policies during regular business hours of the agency.
 - a) Copies of policies governing access to personnel policies, specific job descriptions, and orientation and training, shall be provided to employees at the agency's expense.
 - b) No restrictions of access may be imposed on authorized representatives of the department, nor may fees be charged for copies of personnel policies when access and requests for copies of personnel policies are part of the legitimate functions of the department.
2. Compensation and Benefits. The agency shall adopt policies and procedures that describe the methods used by the agency:
 - a) To set salary and compensation schedules;
 - b) To establish benefit plans and eligibility requirements to participate in benefit plans, if any benefit program is offered to any employee. Nothing in these standards requires the agency to provide specific benefits to any employee.
3. Collective Bargaining Agreements. The agency shall adopt policies and procedures regarding compliance with collective bargaining agreements, if applicable.

B. Organizational Structure

1. Table of Organization. The agency shall maintain current a table of organization that clearly describes the relationships between:
 - a) Overall management, to include the governing body, the chief administrative officer, and administrative and management functions described elsewhere in these standards, as applicable;
 - b) Overall agency management and the management of each discrete program or other management division.
2. Contracted Services. Services provided through contracted relationships shall be so identified on the table of organization.

C. Job Descriptions

1. Written Job Descriptions. The agency shall have written job descriptions for all positions within the agency, which include minimum

qualifications, responsibilities, positions supervised and position(s) providing supervision.

- a) Jobs divided by a “job sharing” or similar program shall further describe the division of tasks agreed upon among the parties.
 - b) A copy of the relevant job description(s) shall be included in the employee’s personnel file.
2. Copies to Employees. The agency, at its own expense, shall provide a copy of the applicable job description to each employee at the time of hire, promotion or orientation.

D. Recruitment and Selection of Employees and Adult Foster Care (sub-contracted) Providers

1. General Criteria

- a) The agency or independent provider shall conduct criminal background checks on any person they hire, contract with, or retain in any capacity.
- b) For those Direct Support Providers or Professionals who have a negative work history known to the independent provider or agency, the independent provider or agency shall document in the individual’s personnel file an assessment of the information and the rationale for hiring and/or retaining the individual. The agency or independent provider shall specifically address issues of professional misfeasance, malfeasance, malpractice or other related misconduct; convictions or findings in which substance abuse or the use of firearms or other weapons were elements; criminal convictions in which the actual or threatened infliction of personal injury upon another was an element.
- c) The agency shall conduct criminal background checks on any adult living in the household where a person is served in an SL model.
- d) The ability to protect the health and safety of persons receiving services is an essential element of every direct support position. The agency or independent provider shall ensure that each individual involved in providing such care is capable of meeting this standard.
- e) The agency shall develop criteria and procedures specifying the conditions under which persons related to members of the governing body or other staff serving in an administrative, governing or supervisory capacity are employed or contracted with.
- f) The agency shall ensure that employment is in compliance with the Americans with Disabilities Act, the Rehabilitation Act of 1973, the Civil Rights Act of 1964, the Maine Human Rights Act, and any other federal, state or local laws or regulations. All

substantiated complaints of violations of these laws or regulations shall be assessed by the agency and actions shall be taken to achieve compliance.

2. Reference and Background Checks

- a) The agency or independent provider shall acquire and retain evidence to demonstrate that all persons engaged in the provision of services are appropriately qualified, certified and/or licensed.
- b) When the operation of a motor vehicle is expected or reasonably anticipated in the course of the DSP's work, the agency or independent provider shall conduct a check of the sub-contractor's or employee's driving record. For those potential DSP's who have convictions for operating under the influence or any other violations or accidents that indicate an unsafe driving history within the past three (3) years, the agency shall not permit him or her to transport clients.
- c) The agency or independent provider shall acquire and retain evidence that all persons who in the completion of their duties are required or could be reasonably anticipated to operate a motor vehicle, have valid driver's licenses appropriate to the class of vehicle to be used. If a person, in the course of providing support, is operating a vehicle not provided by the agency, evidence of registration, inspection and insurance shall be maintained. Such evidence shall be acquired at the commencement of the person's employment or contract and shall be maintained current.
- d) The agency or independent provider shall take effective and lawful action to ensure compliance with V.D.1.a-e, above. This shall include, but not necessarily be limited to, background checks through the State Bureau of Identification, Child Protective Services, Adult Protective Services, the Certified Nursing Assistant register and other similar registers, the Bureau of Motor Vehicles, and such other relevant and available registers, sources of information or databases.
- e) Such background checks shall be conducted at the independent provider's or agency's expense.

E. Volunteers

1. Policies. Agencies engaging volunteers shall adopt and follow policies and procedures for their identification, supervision, orientation and use.
2. Criteria. Agencies or independent providers utilizing volunteers having direct contact with the individuals receiving services or access to confidential client information shall ensure that volunteers meet the same criteria as employees.

F. Students

1. Policies. Agencies providing or participating in the provision of experiential education for students shall adopt and follow policies and procedures for their identification, supervision, orientation and use, including
 - a) A description of the purpose of students' involvement;
 - b) The students' roles and responsibilities;
 - c) A description of required qualifications, orientation and training procedures; and
 - d) The designation of a liaison between the agency and the school making such placements.
2. Criteria. Agencies providing or participating in the provision of experiential education for students resulting in direct contact with individuals receiving services or access to confidential client information shall ensure that students and instructor/supervisors meet the same criteria as employees.

G. Training and Orientation

1. General Orientation Program. The agency shall provide to all new adult M. R. Residential Training employees, SL Providers (sub-contractors), students and volunteers, orientation relevant to the organization as a whole and to Residential Training services in particular. (Completion of the Direct Support Professional: Adult Mental Retardation curriculum satisfies the requirement for b-n below.)
2. This orientation shall include, but not necessarily be limited to:
 - a) The agency's mission, philosophy, and related services
 - b) An overview of the service system, including the history of services and the current service system, roles of public and private agencies, relevant laws and regulations
 - c) An overview of mental retardation, autism and related conditions, including: how disabilities affect development
 - d) Rights of People with mental Retardation or autism including confidentiality; and identification, response to and reporting of suspected abuse, neglect or exploitation
 - e) The role of a legal guardian
 - f) The importance of promoting opportunities and abilities to exercise choice and responsibility
 - g) The importance of promoting and supporting residents' participation and inclusion in their communities
 - h) The personal planning process, and the staff role in supporting the person and the process

- i) Documentation standards
- j) Effective communication, including adaptations and alternatives to speech
- k) Understanding human behavior and positive behavioral supports, including the effects of trauma
- l) Understanding and supporting healthy sexual development and expression
- m) Effective strategies and methods for teaching skills
- n) Health & safety, including food handling, infection control and standard precautions

3. Position Specific Orientation and Training. The agency shall provide to all new employees, students, volunteers, and promoted or transferred employees, orientation and training specific to the duties for which they were retained or accepted. This orientation and training shall include, but not necessarily be limited to,

- a) **Specific job responsibilities.** For persons retained in managerial or supervisory positions, this shall include responsibilities and procedures for management, supervision and discipline of employees. For persons in direct support positions, a review of the personal plan and other relevant records for each person being served;
- b) Organizational structure and supervisory authority;
- c) Safety and emergency procedures particular to the type of work, the location of the work and the persons being served;
- d) Infection control and prevention, particular to the type of work, the location of the work and the persons being served;
- e) A course or training leading to authorization or Certification for Medication Administration, if the administration of medication is a function of the position;
- f) Specialized techniques of communication and intervention, as applicable to the needs of the persons being served.
- g) Intervention techniques appropriate to the person(s) served. Training must be nationally recognized as appropriate to the population served and shall be subject to the review of the department;
- h) Planning, service/support delivery, and documentation appropriate to the position and to the person(s) served in the program.
 - i. This shall include but not necessarily be limited to identification of needs and teaching/coaching/support techniques.
 - ii. This shall specifically include training in the maintenance of appropriate professional boundaries.

3. Assumption of duties following orientation. Employees, SL providers/sub-contractors, volunteers and students shall not be assigned to duties requiring direct involvement with clients until the position-specific orientation, and the general orientation topics regarding the reporting of abuse and neglect, safety and emergency procedures, consumer rights, and confidentiality have been completed and documented. The remaining training and orientation elements must be completed within 120 calendar days of hire.
4. Contracted positions. Persons contracted to provide direct services to consumers on behalf of the agency (i.e. SL provider/sub-contractors) shall complete orientation as described in these rules.
5. Consultants. The agency shall maintain policies and procedures governing orientation of consultants consistent with the services provided by the agency, the needs of persons receiving services and the particular skills and duties of consultants, subject to the review and approval of the department.
6. Ongoing training and education. The agency shall develop and implement policies and procedures to:
 - a) Ensure compliance with on-going professional training requirements for all employees;
 - b) Identify staff training needs and provide for such training, as pertinent to the services provided by the agency;
 - c) Provide for annual in-service and/or external training that includes:
 - i. Emergency and safety procedures, including fire drills,
 - ii. Hygienic practices for the control of infectious diseases, including annual review of management of blood borne pathogens and universal precautions,
 - iii. Updates in intervention techniques,
 - iv. Individual reporting requirements for incidents of abuse, mistreatment, neglect or exploitation,
 - v. Confidentiality,
 - vi. Job specific competencies,
 - vii. Documentation and record keeping.
 - d) This additional training shall be applicable to the duties of the persons receiving the training.
7. Records of completion of orientation and training. The agency or independent provider shall maintain written, accessible documentation that orientation and ongoing training have been completed as described in these standards. Such documentation shall include, at minimum, curriculum, names and credentials of persons providing

orientation or training, dates orientation or training was provided, the length of time of each orientation or training session, and the dated signature of the trainee acknowledging receipt of such orientation or training.

H. Management, Supervision and Discipline

1. Lines of Authority. The agency shall maintain policies and effective procedures governing the application of the lines of authority, as described in the table of organization. This shall include, but not necessarily be limited to,
 - a) The passing of responsibility for oversight and supervision from work shift to work shift, or from service delivery site to service delivery site, as appropriate;
 - b) The passing of responsibility for oversight and supervision of programs/services in the temporary absence of the primary supervisor or manager;
 - c) The passing of responsibility for oversight and supervision of the agency as a whole, in the temporary absence of the chief administrative officer.
 - d) The availability and responsibility of emergency/on-call oversight.
2. Management of Discrete Programs/Services or Other Management Divisions. The agency shall maintain policies and effective procedures governing the selection, supervision and oversight of managers of each discrete program/service or other management division. These shall include, but not necessarily be limited to,
 - a) The selection criteria used to name a manager of each discrete program/service or other management divisions;
 - b) The supervisory chain of command within which the manager of each discrete program/service or other management division is provided oversight, supervision and guidance;
 - c) The supervisory chain of command for each position within every discrete program/service or other management division, reporting to the manager,
3. Supervision. The agency shall identify a supervisor for each position. Supervisors are responsible for supervising Direct Support Professionals and providing direction to SL Direct Support Providers (Adult Foster Care/sub-contractors.)
 - a) At minimum, supervision/direction shall be provided according to the following standards:
 - i. Supervision/direction must be conducted at regularly scheduled times, no less frequently than twice monthly for each staff member or SL provider.

- ii. Supervision/direction may be conducted on an individual or group basis.
 - iii. Issues germane to the duties being performed shall be discussed.
 - iv. A record of supervision/direction shall be maintained, including the dates, employee(s) or sub-contractor(s) supervised, the duration and content of supervision, signed by the supervSLr. The dates, names of persons providing supervision/direction and names of persons receiving supervision/direction shall be subject to the review of the Department.
 - b) Policies shall describe day-to-day supervision and regular performance evaluation of staff members.
4. Supervision of Volunteers and Students. The agency shall identify a direct supervisor for each volunteer and each student, as applicable.
5. Performance Evaluations. The agency shall maintain policies and effective procedures governing the routine, periodic, formal evaluation of the performance of employees and SL providers. Such policies shall include, but not necessarily be limited to,
- a) criteria and procedures for employee evaluations and for evaluating performance of SL providers;
 - b) the development and implementation of individualized performance improvement and training plans;
 - c) frequency of evaluations, which shall be completed no less frequently than at the conclusion of the first six and the first twelve months of employment, whether full or part time, and annually thereafter;
 - d) documentation of evaluations;
 - e) provision of copies of evaluations to employees.
6. Discipline. The agency shall maintain policies and effective, lawful procedures governing employee and SL provider discipline. Such policies shall include, but not necessarily be limited to:
- a) the range of interventions or penalties permitted;
 - b) the circumstances under which particular penalties are required or permitted;
 - c) the penalties for client abuse, mistreatment, neglect or exploitation;
 - d) the penalties for violation of client rights;
 - e) the penalties for violation of rules of confidentiality, including those specific to the services being provided;
 - f) the penalties for workplace use or possession of illicit substances, alcohol or firearms;

- g) the penalties for working under the influence of illicit substances or alcohol;
 - h) the penalties for falsification of any documents related to hiring or retaining employees and contracting with SL providers, whether for self or on behalf of others;
 - i) the penalties for violation of personnel laws (including but not necessarily limited to EEO and ADA) and agency personnel policies;
 - j) procedures for employees' and SL provider appeal of discipline;
 - k) documentation of disciplinary actions and results of appeals.
7. Employee grievances. The agency shall maintain policies and effective procedures governing the acceptance and resolution of grievances brought by employees as a result of management practices, to include but not necessarily be limited to EEO, ADA and the Maine Human Rights Act.

I. Personnel Records

1. Policies. The agency shall maintain policies and effective, reasonable procedures governing personnel records. Such policies shall include, but not necessarily be limited to,
 - a) custody, security and confidentiality of personnel records,
 - b) access to personnel records by employees, supervisors and other agency managers;
 - c) circumstances under which materials may be added or deleted from personnel records;
 - d) circumstances under which all or part of the personnel record may be discussed with or provided to others.
2. Active Records. Such records shall be maintained for all current employees, volunteers, students, contracted staff and consultants.
3. Inactive Records. The agency shall maintain policies and effective procedures governing the identification, custody, security, confidentiality and disposal of personnel records considered inactive.
4. Content of Records. Personnel records shall, at minimum, contain a completed, signed, dated application or resume.
 - b) letters of reference, if provided or acquired. Notes of telephone reference checks must be included. Unfavorable references may not be omitted, if provided or acquired;
 - c) current professional credentials and certifications, if applicable;
 - d) records of completion of orientation and training required under these standards;

- e) the results of all background or reference checks;
- f) current job description;
- g) performance evaluations;
- h) documentation of disciplinary action and results of appeals;
- i) starting, transfer, promotion, demotion and termination dates;
- j) a statement read, signed and dated by the employee, volunteer, student or consultant which clearly defines client abuse, mistreatment, neglect, exploitation and breach of confidentiality; outlines the responsibility to refrain from such actions and to report all such incidents or suspected incidents; and the consequences of failure to comply with the requirements to refrain from such actions and to report all such incidents or suspected incidents;
- k) a statement read, signed and dated by the employee, SL provider, volunteer, student or consultant which acknowledges the receipt of a copy of Rights and basic protections of a person with mental retardation or autism (Title 34-B 5605);
- l) employment agreements, if applicable, including contracts governing the use of contracted SL providers or consultants;
- m) letters of accommodation and supporting medical records, if applicable.

VI. RESIDENTIAL TRAINING CERTIFICATION OPERATIONAL PRACTICES

A. General

1. Policies. The agency shall adopt written operational policies and procedures to adequately address every relevant element of these standards and applicable laws.
2. Program Defined. For purposes of this section, the word "program" shall be defined as an organized system of services with a mission, philosophy and model of service delivery designed to address the needs of clients. It may also mean the specific home in which the client lives and in which services take place.
3. Common Policies. Policies shall be specific to each program, as applicable. Nothing in these rules prohibits the agency from utilizing common policies in the management of diverse programs, if common policies are pertinent to each application.
4. Tobacco.
 - a) Agency employees shall not provide, distribute or facilitate access to tobacco products by persons under the age of 18.
 - b) Agency employees shall not use tobacco products in the presence of persons under the age of 18.
 - c) Programs shall maintain current and effective policies and procedures to ensure the above standards. Policies shall

address disciplinary action to address employee noncompliance with the above standards.

B. Program Organization

1. Program Manager. The agency shall designate an individual as program manager, having overall responsibility for the operation of each program.
 - a) the program manager shall be responsible for the operation of the program at all times. In the necessary absence of the program manager, there shall be designated a qualified person in charge;
 - b) program managers shall be at least 21 years of age, shall possess an associate degree from an accredited college or university in a field of study applicable to the provision of human services, and shall have had at least two years relevant experience in the provision of human services; or in the absence of a degree, shall have had at least four years relevant experience in the provision of human services.
 - c) the duties of the program manager shall be clearly described in the written job description, including minimum qualifications, responsibilities and lines of authority.
 - d) nothing in these rules prohibits the sharing of managers between programs, if the programs are adequately managed.
3. Mission Statement. Each program (Shared Living Residential Training, Shift Staffed Residential Training) shall be guided by a mission statement that is broadly descriptive of the unique services provided and/or individuals served, reflective of the values of the agency as a whole, and consistent with the overall mission of the agency.
4. Population Served. Characteristics of the population served shall be specifically defined for each program.
 - a) This description shall include, but not necessarily be limited to, age, gender, geographic area served, sources of referral, need-based descriptors and criteria, and diagnostic or service need descriptors.
 - b) The agency shall ensure the application of a policy of non-discrimination consistent with applicable laws and regulations, and shall publish this policy in all promotional material. Nothing in these rules prohibits agencies from extending the non-discrimination policy to exceed that required by law or regulation.
 - c) The agency shall ensure the application of a specific policy and procedure regarding compliance with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, the Civil Rights Act, and the Maine Human Rights Act (MHRA).

- i. the policy shall specifically address how persons with disabilities may access services.
- ii. the agency shall notify the department of complaints pursuant to the above cited laws which result in a finding of reasonable grounds by an external regulatory body.

5. Admission Criteria. The admission criteria of each program shall specifically described in policy.
 - a) Programs shall maintain policies and procedures governing emergency admissions, if they are accepted.
 - b) Intake procedures prior to admission including minimum documentation requirements, which must include the provision of information regarding rights, assessments, determination of eligibility and the acquisition of consent;
 - c) The program shall develop and maintain a written protocol or policy that describes its programmatic approach to individuals with co-occurring disorders, including but not necessarily limited to mental illness, substance abuse, or physical illnesses.
 - d) The agency shall maintain a policy and procedure that governs the admission of persons who self-refer.
6. Referrals. Policies and procedures governing the referral of clients shall be maintained. They shall be specific to each program and shall address, but not necessarily be limited to,
 - a) Referral by the department and/or self-referral to the agency;
 - b) Referral between programs within the agency;
 - c) The procedures to ensure timely completion of the referral process;
 - d) The procedure to document the referral and its status in writing.
7. Discharge Criteria. The discharge criteria of each program shall be specifically described by policy and procedure, and shall address, but not necessarily be limited to,
 - a) Notice provided to the consumer, guardian and/or the department prior to discontinuing services;
 - b) The referral to and acquisition of services from other sources;
 - c) Unplanned termination of services by consumers;
 - d) Emergency discharges.
8. Affiliations. When an agency or program offers services through another provider, a cooperative/affiliated service or subcontracting agreement shall exist. This agreement shall be updated and renewed at least annually. The agency shall ensure that services provided through an affiliation agreement or subcontract comply with these rules and any contractual requirements.

C. Program Management

1. General. Each program shall develop, maintain and follow current, accurate policies and procedures governing delivery of certified services within the program.
 - a) There shall be an effective method for development, review and revision of policies and procedures, coordinated and integrated with the review required of the Governing Body.
 - b) Employees and sub-contractors shall have reasonable access to policies and procedures governing program administration.
 - c) Policies and procedures implemented at the program level shall be consistent and in concert with policies and procedures of other related agency programs and with the agency as a whole.
 - d) Policies regarding hours of operation and access to services shall be clearly articulated and made available to staff, SL providers and to persons receiving services.
2. Rights of Consumers. There shall be specific policies and procedures governing the assurance of rights of individuals receiving services. (Title 34-B, § 5605, Rights and basic protections of a person with mental retardation or autism.)
3. Records. There shall be specific policies and procedures governing the confidential maintenance of records of service provision. Such policies and procedures shall be consistent with Maine state law and shall address situations unique to the services provided and site of operation.
4. Routine and Emergency Health Care. There shall be specific policies and procedures governing the provision of routine and/or emergency health care to persons receiving services. The policies and procedures shall address, but not necessarily be limited to,
 - a) Emergency medical services,
 - b) Emergency psychiatric services,
 - c) Emergency transportation,
 - d) First aid and CPR administration by program staff, including the maintenance of first aid supplies adequate to meet situations reasonably anticipated;
 - e) Health records, including immunizations, allergies, serious illnesses and injuries, and religious issues that may have consequences in the provision of care;
 - f) Routine examination, immunization, dental care and eye care, consistent with the physical needs of the persons receiving services,
 - g) Management of treatment refusals for any reason, or objections to treatment on religious grounds;
 - h) Adherence to any somatic or psychiatric advance directives.

5. Medication administration. There shall be specific policies and procedures governing the acquisition, storage, administration and disposal of prescription and over-the-counter medication, consistent with applicable law, rules and these standards. The policies and procedures shall include, but not necessarily be limited to,
- a) Identification of staff positions authorized to order, acquire, store, administer or dispose of medication, including schedule drugs and psychotropic medication;
 - b) Specific training and supervision required of staff so authorized;
 - c) Procedures to order, acquire, store, administer or dispose of medication, including schedule drugs and psychotropic medication;
 - d) Procedures for the acquisition of informed consent from the person for whom the medication is ordered and/or the guardian if one has been appointed, including cases of emergency. This shall include
 - i. the acquisition of informed consent and signature of person served or guardian obtained prior to the first administration of any medication and again prior to the first administration of any change in medication, dosage or route of administration, and
 - ii. the exercise of the client and/or guardian's rights to revoke consent, in writing or verbally, at any time, and the consequent actions to be taken by the independent provider or agency, including consultation with the prescribing physician;
 - iii. the identification and documentation of drug or medication allergies or significant side effects;
 - e) Documentation of administration or refusal of medication, including dosage, route and timing;
 - f) Undesirable outcomes, including medication errors, allergic reactions or significant side effects, and the management of same. This must include the independent provider's or agency's review of critical incidents and development and implementation of plans for improvement based on the review and the method to ensure notification to the department within 24 hours of the incident;
 - g) The acquisition, storage, administration and disposal of medication by consumers for themselves (self administration);
 - h) The prohibition of the use of psychotropic medication on an as needed or PRN basis unless the ordering physician specifies the symptoms the medication is to alleviate, the minimum and maximum doses, the route and frequency of administration, and the circumstances under which the physician will review the continued use.

6. Time Out and Restraint. If time out or restraint is used, there shall be specific policies and procedures governing the use of time out and/or restraint. The use of time out and restraint shall at all times conform with applicable law and regulation (14 Department of Behavioral and Developmental Services, 197 Bureau of Mental Retardation, Chapter 5 Regulations Governing Emergency Interventions and Behavioral Treatment for People with Mental Retardation and/or Autism.) This policy and procedure shall:

- a) Specifically exclude the use of locked seclusion and chemical restraint, including the use of medication on an as-needed basis (PRN) as a form of restraint, or the use of restraint for staff convenience;
- b) Address the range of time out and/or restraint permitted, the circumstances for the use, the process by which it may be implemented, and the documentation of use required;
- c) Describe the assessment process utilized to determine the need for and type of restraint, including the timing of the assessment, the staff completing the assessment, and the methods used to attain the assessment.
- d) Govern methods to monitor and facilitate a consumer initiating time out as a preventative of behavior escalation;
- e) Govern methods to identify individuals' self-soothing, self-calming and/or coping techniques, in lieu of time out and/or restraint;
- f) Describe integration into individual planning, and support of, self-soothing, self-calming and/or coping techniques and interventions for trauma issues, in lieu of time out and/or restraint;
- g) Staff training requirements for the use of time out and/or restraint,
- h) Ensure that time out or restraint interventions are administered by trained staff only;
- i) Govern methods to conduct staff and consumer debriefings following the use of time out or restraint.

7. Behavioral Interventions. If behavioral interventions are used, there shall be specific policies and procedures governing the use of behavioral interventions. For the purposes of these rules, behavioral interventions shall include, but not necessarily be limited to, contracting for behavioral changes, behavioral modification plans and consequences for infractions of program rules. The use of behavioral interventions shall at all times conform with applicable law and regulation, including **Regulations Governing Emergency Interventions and Behavioral Treatment for People with Mental Retardation and/or Autism**. These policies and procedures shall

- a) Specifically prohibit physical or corporal punishment; neglect in any form, including but not necessarily limited to, withholding of food or drink, sleep deprivation, restricting opportunities for personal hygiene, restricting human contact; name calling, shaming or embarrassment; or the use of work as punishment;
 - b) Address integrating behavioral intervention techniques and self-management techniques into individual planning;
 - c) Address staff training requirements for the use of behavioral interventions,
 - d) Ensure that behavioral interventions are administered by trained staff only;
 - e) Ensure that language used in describing program rules, whether spoken or written, is easily understood by the people being served.
- 8. Interpretive Services. There shall be specific policies and procedures governing the availability and provision of interpretive services, whether spoken language or sign, consistent with applicable law and regulation.
- 9. Nutrition and Food Service. The program shall maintain policies and procedures to govern nutrition and food services and shall include but not necessarily be limited to:
 - a) The planning of menus to meet the nutritional needs of the individuals receiving services, including the provision of special foods, meals, supplements or diets, as applicable. Records of menus planned and meals actually served in shift-staffed programs shall be maintained by the program for 60 days and shall be subject to review by the department. At the discretion of the department, a program may be required to retain the services of a licensed dietitian to oversee this requirement;
 - b) Purchasing, storage and preparation of food to preserve nutrients and minimize the risk of food-borne illness;
 - c) Sanitation of the food preparation and service areas, cooking utensils and dishware.

D. Staffing Patterns

- 1. Number of Staff. The program shall employ a sufficient number of qualified employees to accomplish the following:
 - a) Ensure appropriate staff coverage at all times based on the, numbers, capabilities, needs, and service plans of the individuals receiving services;
 - b) Ensure the safety of persons receiving services, in the event of an emergency or disaster.
- 2. Scheduling. Policies and procedures shall be maintained to govern
 - a) Routine scheduling of staff;

- b) Emergency, unusual and unplanned changes in staffing requirements;
 - c) Methods employed to ensure adequate program staffing during periods of staff unavailability, such as vacation, holidays, or sick leave;
 - d) The use of per diem or contracted staff;
 - e) Any other staffing issue particular to the services provided or population served.
3. Records. Records of planned staffing and actual attendance shall be retained by the agency for a period not less than 180 days and shall be subject to the review of the department.

E. Person Centered Plans.

1. Independent providers and agencies shall maintain and enforce policies and procedures to ensure adherence to the Department's standards for Person Centered Planning and or Individual Planning. Such planning procedure shall include, but not necessarily be limited to,
- a) Evaluations and assessments;
 - b) Content and format of individual plans, Such plans shall include but not necessarily be limited to
 - i. short term and long term goals and objectives;
 - ii. specific interventions and name(s) and title(s) of person(s) responsible for implementation and monitoring of effectiveness;
 - iii. behavior-based benchmarks of achievement of goals;
 - iv. target dates for both implementation of interventions and achievement of goals;
 - v. signatures of client, guardian if one has been appointed, staff and/or sub-contractors participating and/or contributing to plan development;
3. Documentation of services. Each program shall maintain and enforce policies and procedures governing the routine documentation of services provided. This shall include, but not necessarily be limited to,
- a) frequency and content of progress notes;
 - b) staff members required to make progress notes and their qualifications;
 - c) documentation of physicians' orders for medication and treatment;
 - d) documentation of the provision of specific services, including physician-ordered medication and treatment;
 - e) maintenance of reports from referral sources.

VII. Residential Training Certification ENVIRONMENT AND SAFETY (site specific)

A. Compliance. The independent provider or agency shall ensure and document continuous compliance with all applicable laws, rules and regulations governing the location, occupancy, use, maintenance, construction and/or renovation of physical structures used in the delivery of certified residential training services.

1. **Burden of Proof.** The agency shall be required, upon the request of the Department, to produce documentation of compliance regarding construction and/or renovation, which shall clearly demonstrate the acquisition of all relevant permits in advance of actual construction and/or renovation. This may include code enforcement inspections, certificates of occupancy, and reference to the single-family section of the national fire code.
2. **Waivers.** Documentation shall include all applicable waivers.

B. Structures. All structures used in the delivery of certified services shall be maintained in good repair and free from danger to health or safety, and shall be appropriate to the services provided.

1. **General.**
 - a) The agency or independent provider shall meet current requirements of the Americans with Disabilities Act of 1990 (104 Stat 327, Pub. L. 101-336, 42 USC sections 12101 et seq.); the Rehabilitation Act of 1973 (87 Stat. 355, Pub. L. 93-0112, 42 USC sections 701 et seq.), and the Maine Human Rights Act.
 - b) All flaking paint must be removed and/or permanently covered, and plans for lead or asbestos abatement must be approved.
2. **Exterior Doors and Windows.**
 - a) Doors, windows and other features of the structure necessary for security from weather or unauthorized entry shall be maintained in good working condition and secured immediately upon being found in a state of disrepair and shall be repaired within 24 hours.
 - b) The doors and windows must meet the local fire egress standards. Doors used for emergency egress must be kept free of debris, snow and ice.
 - c) Insect screens shall be provided for all windows and doors used for ventilation. Screens shall be readily removable in emergencies and shall be maintained in good repair.
3. **Building Interiors.**

- a) Environmental accommodation/modification needs must be identified and either completed or the completion date estimated prior to the consumer moving into the home.
 - b) Adequate separate space shall be provided for staff/providers whose duties and responsibilities include living-in, sleeping-over, or similar functions. The separation of client and staff sleeping areas shall be absolute.
 - c) Doors to bedrooms, closets or bathrooms that can be locked must have an emergency release mechanism readily available that can be activated from both the interior and the exterior of the room or closet.
 - d) Dining areas shall be large enough to accommodate all users at one sitting.
 - e) Living rooms, kitchens, or other common areas, shall be accessible to all occupants of the home and, shall be clean, appropriately lighted, and ventilated.
4. Bathrooms shall be equipped to facilitate maximum self-help by individuals and/or shall be large enough to permit assistance, if necessary.
- a) In RTS homes, there shall be one toilet for every six residents and/or staff on duty.
 - b) Bathrooms shall be equipped with toilet paper, and sinks for hand washing. Such sinks shall be supplied with hot water, soap and appropriate towels.
 - c) Bathing facilities shall be equipped with towels and other supplies necessary to meet individual hygiene needs.
 - d) Bathrooms shall ensure privacy.
5. Bedrooms shall provide no less than 74 square feet of usable floor space in rooms with a single occupant. Available floor space shall be calculated only for that floor space having a ceiling height of a minimum of six (6) feet. Available floor space shall exclude corridors, passageways, vestibules, alcoves, and closets.
- a) Each person served shall have a separate bed area and adequate privacy.
 - b) For homes certified after the effective date of these regulations, double occupancy will only be granted with request of waiver (**i.e. the people served want to share a room.**)
 - c) Each bedroom shall have a closeable door and window coverings to ensure privacy.
 - d) Furnishings and equipment will be appropriate to the age and the physical condition of the person served and there will be adequate space for personal possessions.
 - e) Furniture shall be comfortable, appropriate for the use intended, well maintained and clean. Nothing in these rules prohibits the use

of furniture personally owned by consumers in residential programs, provided that the furniture is serviceable, safe and clean.

6. Kitchens shall be properly equipped and maintained in clean and serviceable condition.
 - a) Food shall be protected at all times from potential contamination.
 - b) Food shall be stored in clean covered containers, and shall not be stored on the floor, or under exposed or unprotected sewer or water lines, or in bathrooms or vestibules. Food may not be stored in opened cans.
 - c) Potentially hazardous food shall be stored in a mechanical refrigerator equipped with a working, indicating thermometer located in the warmest part of the refrigerator. (Zero in the freezer and less than 40 degrees in the refrigerator).
 - d) Ice used for any purpose shall be made from an approved water source.
 - e) Use of tobacco in any form shall not be permitted in any area used for food preparation or clean up.
 - f) Reusable utensils or dishware shall be thoroughly washed and rinsed between uses.
 - g) Utensils, dishware and table linens, whether reusable or disposable, shall be maintained and stored in a clean and sanitary manner.
 - h) Floors, walls and food preparation surfaces shall be smooth, non-absorbent and easily cleaned, and shall be kept clean and in good condition.
7. Smoking areas. Separate smoking areas shall be provided in buildings where smoking is permitted. No smoking shall be permitted in the presence of a non-smoking consumer.

C. Utilities.

1. General. Utilities shall be maintained in good repair and in a manner consistent with applicable codes.
2. Electrical Service. Electrical systems and fixtures shall be maintained in good repair and shall be adequate for the purpose.
 - a) Exterior lighting shall be adequate to ensure the safety of staff and consumers at night.

- b) Extension cords shall be used only as recommended by the Underwriters Laboratory. Multiple outlet surge suppressors may be used if securely mounted off the floor.
- 3. Heating elements. Heating elements, including hot water pipes and solid fuel stoves, shall be installed, operated, and insulated in a manner that ensures the safety of clients and staff.
 - a) Only appropriate heat sources shall be used. (Typical for community, well maintained, adequate for the space.)
 - b) Indoor temperatures shall be moderated based on the needs of the clients.
- 4. Telephone services. Telephone services shall be provided in all sites.
 - a) Telephones may be hard-wired or portable/cellular, at the independent provider's or agency's discretion.
 - b) Telephone service adequate to summon emergency help shall be available. (In the event of power outage, cordless phones are inoperable.)
 - c) Telephones must be available for use of consumers.
 - d) Nothing in these rules requires the independent provider or agency to provide long distance or toll calling services for any consumer's personal use at the agency's expense, except that consumers of residential services shall be provided reasonable access to telephone service to communicate with advocates, attorneys, case managers, physicians, employers, guardians, family and friends.
- 4. Water. Water derived from sources other than an approved public water supply shall be subjected to water analysis by the Maine Department of Human Services, Division of Health Engineering or other approved laboratory, on an annual basis at minimum, but no less than is needed to ensure the safety of the water.
 - a) The agency or independent provider shall maintain records of compliance with this rule and shall maintain records of interventions taken to remedy any findings requiring correction, and the results of the interventions.
 - b) Heated water accessible to individuals in care for personal use shall be regulated to a temperature not in excess of 120° F.
- 4. Sewage. Sewage disposal systems other than public systems shall be maintained in proper working order to prevent back flow, over flow, seepage, or other circumstances capable of risking the health of persons using the building.

D. Grounds

- 1. Hazards. The site grounds shall be maintained in a manner which ensures that they are free from any hazard to health or safety.

2. Unreasonable Risk. Areas presenting an unreasonable risk to persons receiving residential services such as steep grades, cliffs, open pits, swimming pools, high voltage transformers, or major roads, shall be fenced or have natural barriers sufficient to prevent access. Fences and natural barriers shall be maintained in good repair.

E. Safety and Sanitation

1. Garbage. Garbage and rubbish shall be stored securely in covered containers and shall be removed on a regular basis.
2. Routine Maintenance and Cleaning. There shall be evidence of routine maintenance and cleaning
 - a) Examine fire extinguishers, smoke detectors, and first aid kits for expiration dates.
 - b) The home should be kept reasonably clean and people served should be encouraged to participate as much as they are capable.
3. Storage areas. The independent provider or agency shall provide secured storage space in every building or location used for the provision of certified services for all potentially harmful materials.
 - a) PoSLnous or toxic materials shall be labeled and stored in locked storage spaces that are not used for any other purpose.
 - b) PoSLnous, toxic or flammable materials and/or their containers shall be stored, used and disposed of in compliance with all applicable regulations, rules and laws.
 - c) Sharps and bio-hazardous materials and their containers shall be stored, used and disposed of in compliance with all applicable regulations, rules and laws.
4. Power Driven Equipment. Power driven equipment shall be maintained in safe and good repair. Safety features shall not be disabled, disconnected or removed and shall be in use during operation. Use of power driven equipment by consumers shall be consistent with applicable laws and regulations and permission given by Guardian if applicable. Power driven equipment shall not be left unattended.
5. Firearms. Firearms, ammunition and other weapons owned by the SL Provider or family must be kept locked in Shared Living residential training programs. Direct Support Professionals shall not bring firearms, ammunition or other weapons into a residential training program. Consumer-owned firearms, ammunition and other weapons shall be kept locked and be accessible per the consumer's PCP.

6. **Swimming Pools.** Swimming pools shall be maintained free from contamination in accordance with Department of Health & Human Services, Division of Health Engineering standards. In shift-staffed programs, when consumers have access to the pool, the agency shall have present an individual who has a current water safety instructor certificate or senior lifesaving certificate from the Red Cross or its equivalent.
7. **Domestic Animals.** The agency shall ensure that domestic animals kept or maintained at any location under control of the agency shall have current and appropriate vaccinations as required by law and shall otherwise be maintained according to applicable law, rule and/or regulation.
8. **Transportation.** The agency shall ensure that there are policies governing the transportation of consumers.
 - a) all vehicles used to transport consumers shall be in a safe condition, and equipped in a manner consistent with the seasons.
 - b) the number of people permitted in any vehicle shall not exceed the number of seats and seat belts available and in working condition.
 - c) there shall be adequate supervision in any vehicle used to transport consumers.
 - d) the vehicle must have current registration, inspection and insurance.
9. **Safety Program.**
 - a) **an agency and all sites shall maintain an active safety program including investigation of all accidents and/or incidents.**
 - b) the safety program shall include recommendations for prevention.
 - c) an agency and all sites and independent providers shall follow MR Reportable Events Procedures.

F. Emergency Management Plans. The independent provider and agency shall adopt written procedures for staff and consumers to follow in case of emergency or disaster.

1. **Plan Development.** Plans shall be developed with the assistance of qualified fire, health and safety personnel and shall include, but not necessarily be limited to,
 - a) evacuation of all buildings;
 - b) assignment of support people during emergencies;
 - c) notification of guardians, the agency and the department, as applicable;
 - d) management of medical and psychiatric emergencies;
 - e) searches for lost persons, if applicable; and
 - f) weather emergencies.

1. Staff Access to Plans. Copies of emergency management plans shall be readily available to all staff at all times.
2. Emergency Practices. Emergency practices shall be developed and implemented, and shall include but not necessarily be limited to
 - a) posting emergency numbers adjacent to telephones for fire, police, physician(s), poison control, health agency and ambulance;
 - b) posting fire evacuation procedures in conspicuous locations throughout buildings;
 - c) instructing consumers and staff in fire prevention, reporting, and building evacuation;
 - d) training all staff on all shifts to perform assigned tasks during emergencies, including the use and location of fire fighting equipment. The occupants of sites providing certified services shall practice emergency procedures, including actual evacuation of individuals to safe areas, four (4) times per year.
 - i) Emergency drills shall be held at unexpected times and under varying conditions to simulate the possible conditions of fires or other disasters.
 - ii) Records of such emergency drills shall be maintained, noting dates and time, evacuation time, exits used, problems or barriers encountered and the corrective measures to be implemented henceforth.